



ADVISORY

(VOC POLICY)

September 26, 1986

Number 12

Department of Defense

Policy Guidance for Volatile Organic Compounds

Compliance Planning

The Compliance Division has received from the Federal Environmental Protection Agency, the attached memorandum and policy guidance. This memorandum was sent to all secretaries of military departments from the Assistant Secretary of Defense, James P. Wade, Jr. In his memo, Mr. Wade advises departmental secretaries to submit a Volatile Organic Compound (VOC) emission abatement plan covering all facilities subject to Department of Defense (DOD) control to the Director of Environmental Policy by October 1, 1986. Specific guidance for preparing this plan was also provided. Mr. Wade explains that the DOD is required to comply with all applicable pollution control regulations as required by the Clean Air Act and Executive Order 12088.

The Air Resources Board (ARB) is pleased to see DOD is requiring facility compliance with California air pollution control regulations. In keeping with this objective, the ARB is requesting that your district issue notices of violation to any DOD facility found not complying with rules limiting or regulating VOC emissions. For your information, I have attached a Bay Area Air Quality Management District petition for an order of abatement to the District Hearing Board accusing the U.S. Department of Defense of violations of the surface coating rule for miscellaneous metal parts and products.

If you have any questions about this enforcement policy or need additional information, please call Mary Boyer at (916) 322-6037.

Attachments

James J. Morgester, Chief
Compliance Division
Air Resources Board
P.O. Box 2815
Sacramento, CA 95812



ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D C 20301-6000

ACQUISITION AND
LOGISTICS

18 JUL 1986

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
DIRECTOR, DEFENSE LOGISTICS AGENCY


SUBJECT: Policy Guidance for Volatile Organic Compound (VOC)
Compliance Planning

Under the Clean Air Act, each state must develop and implement an EPA-approved State Implementation Plan to attain National Ambient Air Quality Standards (NAAQS). Also, state and local governments may impose additional, more restrictive air pollution control requirements. Under the Clean Air Act and Executive Order 12088, the DoD is required to comply with applicable pollution control regulations.

The DoD exercises control over facilities in a number of areas of the U.S. that are classified as non-attainment for ozone. Control of VOCs is an integral part of ozone attainment strategies. DoD policy is not to exceed VOC emission limitations and to implement compliance measures at facilities where emissions limitations are being exceeded whether or not a formal Notice of Violation has been received. This policy applies to all facilities subject to DoD control.

The services, as part of implementing DoD policy, shall prepare abatement plans for controlling VOC emission. The plans shall provide for specific actions and schedules to be undertaken. The goal of these plans shall be to achieve compliance with applicable VOC emission limitations as soon as possible, but no later than December 31, 1987.

Please submit a copy of your abatement plan to the Director of Environmental Policy by October 1, 1986. Specific guidance for plan preparation is provided in the attached reference, "Compliance Strategy and Guidance for Preparing Abatement Plans, Volatile Organic Compound (VOC) Emission."


James P. Wade, Jr.

Attachment

**COMPLIANCE STRATEGY AND GUIDANCE
FOR PREPARING ABATEMENT PLANS
VOLATILE ORGANIC COMPOUND (VOC) EMISSION**

The following compliance strategy and guidance shall be used for preparing VOC emission abatement plans. The strategy and guidance accord with DoD policy for Volatile Organic Compound (VOC) Compliance Planning.

Each service shall prepare a plan for abating VOC emissions at facilities subject to its control. Each plan shall provide for specific actions and schedules to be undertaken. The goal of each plan shall be to achieve compliance with applicable VOC emission limitations as possible, but no later than December 31, 1987.

Compliance Strategy

- o Where VOC emission reductions are possible now, without impairing critical performance, and without incurring major additional cost -- we shall implement those reductions immediately.
- o As soon as "compliance coatings" are developed for an application (coatings that meet performance specifications as well as VOC emission requirements) -- we shall stop using non-complying coatings in that application.
- o Where we know now what needs to be done and how to do it -- we shall set schedules for doing it.
- o Where we do not know now what needs to be done -- we shall set schedules for finding out and for deciding.
- o If, after pursuing the preceding four steps we still have situations where, despite our best efforts, we cannot make meaningful VOC emission reductions we shall identify those situations so that appropriate policy can deal with them.

Guidance for Preparing Abatement Plans

A copy of your abatement plan shall be submitted to the Director of Environmental Policy by October 1, 1986. As a minimum, the plan shall include:

- o a list of facilities and sources subject to your control that have VOC emission compliance problems, classified as follows:

Now exceeding applicable VOC emission limitations, whether or not a Notice Of Violation has been received.

- Now operating under state or local waiver.

Likely in the foreseeable future to have compliance problems.

- o For each facility and source subject to your control that has VOC emission compliance problems, a list of the regulations and guidelines deemed applicable to the facility or source and the compliance status of each. Where there is a dispute with pertinent state or local authorities as to applicability or status, the list shall state the nature of the dispute.
- o For each facility subject to your control where a NOV has been received, the resolution arrived at with the authority issuing the NOV or, where no resolution has been arrived at, your plan for resolving the situation.
- o For facilities subject to your control in ozone non-attainment areas, a list of the actions to be taken to obtain immediate VOC emission reduction, the dates for implementation, and your quantitative estimates of the VOC emission reductions that will result.
- o A service-wide plan to address your service's participation in measures to achieve significant long-term reduction in VOC emissions. Measures to be included are the following:
 - Review of Federal Supply Class 8010 specifications, to eliminate nonessentials and correct deficiencies, through participation in a joint team chaired by the Army. Reference April 9, 1986, memo from the DASD (Production Support).
 - Development of universal performance specifications for coatings, through participation in a joint team chaired by the Air Force. Reference April 9, 1986, memo from the DASD (Production Support).
 - Streamlining the new coating approval process by defining testing requirements, eliminating duplication with the other services, and defining coordination requirements and approval authority.
- o Implementing the expansion of coatings research and development programs to: improve application techniques; find low VOC coatings; review applicability of existing air pollution control equipment; and develop new cost effective control technologies, for use where existing technologies do not provide adequate VOC control at reasonable cost.

- o Identification of those compliance problems whose resolutions have not been funded, and action taken to fund resolution.

In accordance with the provisions of Executive Order 12088, the EPA will provide technical advice and assistance to DoD and the military services. Examples of areas where the military services may request EPA assistance are: consulting on methods for abatement of VOCs, and providing advice on cost-effective and timely compliance.

Progress reports shall be submitted semi-annually. Additional guidance for formatting progress reports will be provided in the near future.


CARL J. Schafer, Jr.
Director, Environmental Policy

FILED

SEP 10 1986

HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

KILDAE GOOSEFF

DEPUTY CLERK

HEARING BOARD

Bay Area Air

Quality Management District

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BEFORE THE HEARING BOARD
OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA

AIR POLLUTION CONTROL OFFICER
OF THE BAY AREA AIR QUALITY
MANAGEMENT DISTRICT,

Complainant,

v.

UNITED STATES DEPARTMENT OF
DEFENSE; UNITED STATES DEPARTMENT
OF THE ARMY; VERNE ORR, SECRETARY
OF THE ARMY; UNITED STATES
DEPARTMENT OF THE AIR FORCE;
JOHN O. MARSH, JR., SECRETARY OF
THE AIR FORCE; UNITED STATES
DEPARTMENT OF THE NAVY; JOHN F.
LEHMAN, SECRETARY OF THE NAVY;
DR. JAMES P. WADE, JR., ASSISTANT
SECRETARY OF DEFENSE FOR ACQUI-
SITION AND LOGISTICS; CAPTAIN
A.H. ALLNUTT, COMMANDING OFFICER,
DEFENSE CONTRACT ADMINISTRATIVE
SERVICES MANAGEMENT AREA,
SAN FRANCISCO; CAPTAIN GORDON R.
GOLDENSTEIN, BASE COMMANDER NAVAL
AIR STATION, ALAMEDA, CALIFORNIA;
CAPTAIN HENRY H. DAVIS, BASE
COMMANDER, NAVAL AIR STATION,
MOFFETT FIELD, CALIFORNIA;
CAPTAIN HARRY P. MANN, BASE
COMMANDER, MARE ISLAND NAVAL

DOCKET NO. 1586

ACCUSATION OF VIOLATION OF
SECTIONS 8-19-301, 8-19-302
AND 8-19-307 OF THE RULES
AND REGULATIONS OF THE BAY
AREA AIR QUALITY MANAGEMENT
DISTRICT AND APPLICATION
FOR ORDER OF ABATEMENT

SHIPYARD, VALLEJO, CALIFORNIA;)
CAPTAIN G.G. MAYS, BASE COMMANDER)
NAVAL WEAPONS STATION, CONCORD,)
CALIFORNIA; CAPTAIN JAMES F.)
GREENWALD, COMMANDING OFFICER,)
WESTERN DIVISION NAVAL FACILITIES)
ENGINEERING COMMAND, SAN BRUNO,)
CALIFORNIA; COLONEL JOSEPH V.)
RAFFERTY, POST COMMANDER, THE)
PRESIDIO OF SAN FRANCISCO, SAN)
FRANCISCO, CALIFORNIA; COLONEL)
SAMMY F. BETSILL, BASE COMMANDER,)
TRAVIS AIR FORCE BASE, FAIRFIELD,)
CALIFORNIA; REAR ADMIRAL GLENWOOD)
CLARK, COMMANDING OFFICER, UNITED)
STATES NAVY SPACE AND NAVAL)
WARFARE SYSTEMS COMMAND; VICE)
ADMIRAL E.B. FOWLER, COMMANDING)
OFFICER, NAVAL SEA SYSTEMS)
COMMAND; REAR ADMIRAL E.K.)
WALKER, JR., COMMANDING OFFICER,)
NAVAL SUPPLY SYSTEMS COMMAND;)
MAJOR GENERAL ROBERT D. MORGAN,)
COMMANDING OFFICER, ARMY COMMUNI-)
CATIONS-ELECTRONICS COMMAND;)
MAJOR GENERAL DUARD BALL,)
COMMANDING OFFICER, ARMY TANK-)
AUTOMOTIVE COMMAND; DOES I)
THROUGH XXV, inclusive.)

Respondents.

MILTON FELDSTEIN, AIR POLLUTION CONTROL OFFICER OF THE BAY
AREA AIR QUALITY MANAGEMENT DISTRICT, pursuant to the provisions
of California Health and Safety Code Sections 40752 and 42451
alleges that:

1. Respondent, the United States Department of Defense
("DOD or "the military"), is an instrumentality of the executive
branch of the Federal Government of the United States of America,
and Respondents, Department of the Navy ("the Navy"), Department
of the Army ("the Army"), and Department of the Air Force ("the

1 Air Force"), are in turn branches of the Department of Defense.
2 (Hereinafter, the Navy, the Army and the Air Force will be
3 collectively referred to as the "branches.")

4 2. Under the terms of Clean Air Act Section 118 (42 U.S.C.
5 Section 7418) and Executive Order 12088 (a copy of which is
6 || attached hereto as Exhibit A), the DOD and its branches are
7 required to comply with all applicable pollution control
8 regulations, including the Rules and Regulations of the Bay Area
9 Air Quality Management District ("the District").

10 3. The DOD and its branches exercise jurisdiction over a
11 number of facilities located within the boundaries of the
12 District. The DOD and its branches have the duty and
13 responsibility to insure that all facilities under their
14 respective jurisdictions which are within the boundaries of the
15 District comply fully with the District's requirements respecting
16 the control and abatement of air pollution. The facilities to
17 which this duty and responsibility apply include, but are not
18 limited to, the following:

- 19 - Presidio of San Francisco (Department of the Army)
- 20 - Naval Air Station, Alameda (Department of the Navy)
- 21 - Naval Air Station, Moffett Field (Department of Navy)
- 22 - Mare Island Naval Shipyard (Department of the Navy)
- 23 - Naval Weapons Station, Concord (Department of Navy)
- 24 - Travis Air Force Base (Department of the Air Force)

25 At all of the aforementioned facilities, the DOD, through its
26 branches, is engaged in various activities which are subject to

1 the Rules and Regulations of the Bay Area Air Quality Management
2 District, and in particular, to the requirements of District
3 Regulation 8, Rule 19

4 4. Respondent, John F. Lehman, is the Secretary of the
5 Navy. Pursuant to Section 118 of the Clean Air Act and Executive
6 Order 12088, he has the statutory duty to administer the
7 Department of the Navy and to insure that with respect to its
8 facilities within the boundary of the District, the Department of
9 the Navy complies fully with all applicable requirements
10 respecting the control and abatement of air pollution.

11 5. Respondent, Verne Orr, is the Secretary of the Army
12 Pursuant to Section 118 of the Clean Air Act and Executive Order
13 12088, he has the statutory duty to administer the Department of
14 the Army and to insure that with respect to its facilities within
15 the boundary of the District, the Army complies fully with all
16 applicable requirements respecting the control and abatement of
17 air pollution.

18 6. Respondent, John O. Marsh, Jr., is the Secretary of the
19 Air Force. Pursuant to Section 118 of the Clean Air Act and
20 Executive Order 12088, he has the statutory duty to administer
21 the Department of the Air Force and to insure that with respect
22 to its facilities within the boundary of the District, the Air
23 Force complies fully with all applicable requirements respecting
24 the control and abatement of air pollution.

25 7. Respondent, Dr. James P. Wade, Jr., is the Assistant
26 Secretary of Defense for Acquisition and Logistics. He has the

1 duty and responsibility to administer and oversee the procurement
2 of all goods and services by the DOD and its branches. Pursuant
3 to Section 118 of the Clean Air Act and Executive Order 12088, he
4 has the statutory duty to administer the procurement activities
5 of the DOD and its branches and to insure that with respect to
6 contracts to be performed for the DOD and its branches within the
7 boundary of the District, the DOD and its branches comply fully
8 with all applicable requirements respecting the control and
9 abatement of air pollution, and in particular with the
10 requirements of District Regulation 8, Rule 19.

11 8. Respondent, Captain A.H. Allnutt, is the Commanding
12 Officer of the Defense Contract Administrative Services
13 Management Area ("DCASMA"), San Francisco, a subdivision of the
14 Defense Logistics Agency. He has, inter alia, the duty and
15 responsibility to administer and oversee the procurement of goods
16 and services by the various branches of the DOD from outside
17 contractors who operate within the boundary of the District, and
18 to insure that with respect to contracts to be performed for the
19 DOD and its branches within the boundary of the District, the DOD
20 and its branches comply fully with all applicable requirements
21 respecting the control and abatement of air pollution, and in
22 particular with the requirements of District Regulation 8, Rule
23 19.

24 9. Respondent, Captain Gordon R. Goldenstein, is the Base
25 Commander of the Naval Air Station, Alameda, Alameda County,
26 California.

1 10. Respondent, Captain Henry H. Davis, is the Base
2 Commander of the Naval Air Station, Moffett Field, Santa Clara
3 County, California.

4 11. Respondent, Captain Harry P. Mann, is the Base
5 Commander of the Mare Island Naval Shipyard, Vallejo, Solano
6 County, California.

7 12. Respondent, Captain G.G. Mays, is the Base Commander of
8 the Naval Weapons Station, Concord, Contra Costa County,
9 California.

10 13. Respondent, Colonel Joseph V. Rafferty, is the Post
11 Commander of the Presidio of San Francisco, City and County of
12 San Francisco, California.

13 14. Respondent, Colonel Sammy F. Betsill, is the Base
14 Commander of Travis Air Force Base, Fairfield, Solano County,
15 California.

16 15. [reserved]

17 16. Each of these Respondents, Goldenstein, David, Mann,
18 Mays, Rafferty, and Betsill, has the duty and responsibility to
19 administer his respective facility and to insure that it complies
20 fully with the District's requirements respecting the control and
21 abatement of air pollution, and in particular, with the
22 requirements of District Regulation 8, Rule 19.

23 17. Respondent, Captain James F. Greenwald, is the
24 Commanding Officer of the Western Division Naval Facilities
25 Engineering Command, San Bruno, San Mateo County, California. He
26 has the duty and responsibility to procure materials for the

1 Navy's facilities within the boundary of the District and to
2 assist such facilities to comply with District requirements
3 respecting control and abatement of air pollution, and in
4 particular with the requirements of Regulation 8, Rule

5 18. Respondent, Rear Admiral Glenwood Clark, is
6 Commanding Officer of the Space and Naval Warfare Systems
7 Command, a subdivision of the Navy. The Space and Naval Warfare
8 Systems Command is, inter alia, the successor to the Naval
9 Electronic Systems Command.

10 19. Respondent, Vice Admiral E.B. Fowler, is the Commanding
11 Officer of the Naval Sea Systems Command, a subdivision of the
12 Navy.

13 20. Respondent, Rear Admiral E.K. Walker, is the Commanding
14 Officer of the Naval Supply Systems Command, a subdivision of the
15 Navy.

16 21. Respondent, Major General Robert D. Morgan, is the
17 Commanding Officer of the Army Communications-Electronics
18 Command, a subdivision of the Army.

19 22. Respondent, Major General Duard Ball, is the Commanding
20 Officer of the Army Tank-Automotive Command, a subdivision of the
21 Army.

22 23. Each of these Respondents, Clark, Fowler, Walker,
23 Morgan and Ball, has the duty and responsibility to administer
24 his respective command and to insure that in its procurement
25 activities involving contracts which are performed within the
26 boundaries of the District, it complies fully with the District's

1 requirements respecting the control and abatement of air
2 pollution, and in particular with the requirements of District
3 Regulation 8, Rule 19, Section 307

4 24. The true names of Does I through XXV, inclusive, are
5 unknown to Complainant, and Complainant will request leave of the
6 Hearing Board to amend this Accusation to provide their true
7 names when they are known to Complainant.

8 25. The Clean Air Act (42 U.S.C. Section 7401, et seq.)
9 establishes that state and local governments have the primary
10 responsibility for the control and abatement of air pollution and
11 requires states to develop effective control and abatement
12 programs. Pursuant to state law (Health and Safety Code Section
13 40200, et seq.) the Bay Area Air Quality Management District has
14 this primary responsibility within the nine-county San Francisco
15 Bay Area.

16 26. Various commands within the Army, the Navy and the Air
17 Force have contracts with various civilian companies all or part
18 of the terms of which contracts are performed at facilities
19 located within the jurisdiction of the Bay Area Air Quality
20 Management District. A significant number of such contracts
21 involve activities which are subject to the District's Rules and
22 Regulations. The companies engaged in such activities under
23 contract to one or another or several of the commands within the
24 various branches of the DOD include, but are not limited to, FMC
25 Corporation, ARGOSystems and the ESL Subsidiary of TRW, Inc.

26 27. Among the activities subject to District requirements

1 which are conducted at the DOD and civilian facilities referred
2 to in paragraphs 3 and 26 above is the surface coating of
3 miscellaneous metal parts. Such activity is governed by the
4 terms of District Regulation 8, Rule 19.

5 28. Section 8-19-301 of the Rules and Regulations of the
6 Bay Area Air Quality Management District provides as follows:

7 "8-19-301 Interim Limits: Except as otherwise provided by
8 this Rule, a person shall not apply to any
9 miscellaneous metal part or product any coating with a
10 VOC content in excess of the following limits,
11 expressed as grams of VOC per liter of coating applied,
excluding water, unless emissions to the atmosphere are
controlled to an equivalent level by methods approved
by the APCO:

12	<u>301.1</u> Baked Coatings	360 grams/liter (3.0 pounds/gallon)
13	<u>301.2</u> Air-Dried Coatings	420 grams/liter (3.5 pounds/gallon)"

14 29. Section 8-19-302 of the Rules and Regulations of the
15 Bay Area Air Quality Management District provides as follows:

16 "8-19-302 Final Limits: Effective January 1, 1986 except as
17 otherwise provided by this Rule, a person shall not
18 apply to any miscellaneous metal part or product any
19 coating with a VOC content in excess of the following
20 limits, expressed as grams of VOC per liter of coating
applied, excluding water, unless emissions to the
atmosphere are controlled to an equivalent level by
methods approved by the APCO:

21	<u>302.1</u> Baked Coatings	275 grams/liter (2.3 pounds/gallon)
22	<u>302.2</u> Air-Dried Coatings	340 grams/liter (2.8 pounds/gallon)

23 302.3 The requirements of Section 8-19-302 shall not
24 apply to the use of any coating with a VOC content in
25 excess of that specified in subsections 8-19-302.1 or
26 302.2, provided the total quantity of such non-
complying coatings used does not exceed 2114 (500 gal.
between January 1 and July 1, 1986."

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26

1 30. Section 8-19-307 of the Rules and Regulations of the
2 Bay Area Air Quality Management District provides as follows:

3 "8-19-307 Prohibition of Specification: No person shall
4 require for use or specify the application of a coating
5 on a miscellaneous metal part or product if such use or
6 application is prohibited by any provisions of this
7 Rule. The prohibition of this Section shall apply to
 all written or oral contracts under the terms of which
 any coating is to be applied to any miscellaneous metal
 part or product at any physical location within the
 District."

8 31. On December 19, 1984, the District's Board of Directors
9 amended Regulation 8, Rule 19. Among the significant changes to
10 that Rule which the Board adopted on that date were three of
11 particular importance to the DOD and its branches. These were
12 the following:

- 13 a) Reduction (effective March 1, 1985) of the low usage
14 coating exemption from approximately 1000 gallons per
 year to 20 gallons per year (Section 110).
15 b) Adoption (effective July 1, 1985) of a prohibition
16 (in many cases, by a non-user) against specifying the
 use of non-complying coating (Section 307).
17 c) Refusal to extend (beyond January 1, 1986) the final
18 limit exemption previously granted to military-
 specified coatings (former Section 115).

19 32. When the low usage coating exemption in Section 110 was
20 reduced from 22 pounds of allowed VOC emissions per day per
21 coating to a usage limitation of 20 gallons per year per coating
22 (dependent upon APCO approval), Bay Area job shop coaters began
23 notifying their customers that many of their facilities were no
24 longer exempt under the new, more stringent restrictions. These
25 customers obtained relief for their contracted coating work by
26 seeking variances from the District's Hearing Board. At least

1 seven of those applications related directly to work being done
2 under specifications of non-complying coatings pursuant to
3 contracts with one or another of the branches of DOD.
4 Hearing Board Dockets which involved such specification of non-
5 complying coatings included the following:

6 1347 - Ford Aerospace & Communications Corp., Palo Alto

7 1352 - FMC Corporation, San Jose

8 1355 - Varian, Palo Alto

9 1359 - Westinghouse, Sunnyvale

10 1364 - ARGOSystems, Sunnyvale

11 1391 - ESL, Subs. TRW, Sunnyvale

12 1422 - GTE Government Systems Corp., Mountain View

13 33. Former Section 115 of Regulation 8, Rule 19,
14 provided an exemption which was still in place as of December 19,
15 1984, for coatings "subject to approval by a military agency for
16 || use in military equipment". Under this Section, the District's
Board of Directors had already provided an extended deadline of
18 January 1, 1984, for achieving compliance with the interim VOC
19 limits of Section 8-19-301. Therefore, coaters doing work under
20 military-specified contracts, and military facilities at which
21 such coating operations were conducted directly by the various
22 branches of the military, had no special exemption for the use of
23 coatings which exceeded said interim limits available to them
24 other than the frequently-invoked small coating line exemption
25 (which was eliminated entirely as of March 1, 1985) or the less-
26 frequently-used low usage coating exemption which was drastically

1 reduced in scope as of March 1, 1985.

2 34. Relief granted by the Hearing Board in the cases
3 referred to in paragraph 33 above either for work done by a
4 contract painter or on their own premises, or both, required
5 eventual compliance of coatings applied pursuant to military
6 specifications (hereafter "milspecs") with the Section 8-19-301
7 interim limits. Either on their own or with the help of
8 consultants, the companies subject to the variances in these
9 cases began working with the branches of the military and their
10 R&D laboratories to accomplish the conversion necessary to come
11 into compliance. At the same time, where companies did use
12 volumes less than 20 gallons per year, they petitioned to use
13 non-complying coatings, including in certain cases, non-complying
14 milspec coatings. In addition, companies were authorized to
15 apply for an extreme performance exemption under Section 8-19-129
16 if their usage did not exceed 1,000 gallons per year and
17 complying coatings could not be used to meet applicable
18 performance criteria. The Air Pollution Control Officer granted
19 exemptions for such low usage coatings and for extreme
20 performance coatings where a performance standard indicated that
21 no complying coatings could be used, but some requests for
22 exemption had to be denied because they contained no
23 demonstration that a complying coating could not be used for the
24 application in question.

25 35. Subsequent to March 1, 1985, the Air Pollution Control
26 Officer granted Section 110 low usage coating exemptions or

Section 129 extreme performance exemptions involving the use of
milspec coatings to the following companies:

Varian Microwave Equipment Division, Santa Clara

Varian Image Tube Division, Palo Alto

ESL, Susidiary of TRW, Sunnyvale

Ford Aerospace and Communications Corporation, Palo Alto

Westinghouse, Sunnyvale

GTE Government Systems Corporation, Mountain View

Raychem, Menlo Park

Watkins Johnson Company, Palo Alto

Hewlett Packard Signal Analysis Division, Rohnert Park

Narda Western Operation, San Jose

FMC Corporation, San Jose

Omega Microwave, San Jose

The Air Pollution Control Officer has denied such exemptions to
the following companies:

Varian MTD, Palo Alto

Funnels Industries, Hayward.

36. In early 1986, the three companies referred to in
paragraph 26 above were still before the Hearing Board on
variance applications covering the use of milspec coatings.
These companies were advised that District staff would not oppose
their request for additional variance relief (which they were
seeking, because these companies were having no success in
obtaining approval from the various branches of the military to
proceed with conversions to complying coatings) if they revealed

the specific commands within the branches of the military that were responsible for specifying the use of non-complying coatings. Based on the information which the District staff received from these companies, the staff, on March 11, 1986, issued nine Violation Notices to various commands within the branches of the military for violation of Section 8-19-307, Prohibition of Specification. The commands which were issued such Violation Notices on March 11, 1986, for specifying coatings which exceeded the allowable volatile organic compound limits of Sections 8-19-301 and/or 302 were as follows:

<u>COMMAND</u>	<u>VIOLATION NOTICE NO.</u>
Naval Sea Systems Command	11429
Space & Naval Warfare Systems Command	11430
Naval Electronics Systems Command	11432
Naval Supply Systems Command	11431
Army Tank-Automotive Command	11426
Army Communication & Electronics Command	11427
Sacramento Army Depot	11428
Defense Logistics Agency (DCASMA)	11434
Air Force Systems Command	11433

37. The District staff has subsequently learned that the Naval Electronics Systems Command has been succeeded by and incorporated into the Space and Naval Warfare Systems Command. Moreover, based on updated information which the District staff has received since the issuance of these violation notices referred to in paragraph 36 above, the District staff has

1 determined that the Sacramento Army Depot and the Air Force
2 Systems Command are probably not directly responsible at this
3 time for the specification of the use of non-complying coatings
4 in violation of Section 8-19-307. Accordingly, subsequent to
5 their issuance, the staff has withdrawn Violation Notice Nos.
6 11428 and 11433

7 38. Also in early 1986, the District's Enforcement Division
8 undertook a concentrated effort to determine the compliance
9 status of coating operations at the various military bases
10 located in the Bay Area. As a result of this effort, District
11 staff determined that non-complying coatings were being used, and
12 that requirements of Sections 8-10-301 and 8-19-302 were being
13 violated, in connection with coating activities at most of
14 military bases in question, as well as that as a result of such
15 use on non-complying coatings, various technical commands within
16 the respective branches of the military which operated such bases
17 were also violating the prohibition of specification set forth in
18 Section 8-19-307. However, to date, certain of the military
19 bases in question have either refused to provide District staff
20 with access to suspected non-complying source operations or have
21 failed to provide requested information on the location or the
22 types of coating activities being conducted at such bases. For
23 such failures to provide access or requested information, the
24 staff has issued Violation Notices under Section 1-441 of the
25 District's Rules and Regulations. The military bases within the
26 District's jurisdiction which have been issued Violation Notices

(1) for violations of the VOC content limitations set forth in Sections 8-19-301 and/or 8-19-302; (2) for violation of the administrative recordkeeping requirement relating to coating usage set forth in Section 8-19-501; and (3) for violation of the requirements that District staff be provided reasonable access to premises for the purpose of investigatory compliance with District regulations or with California law, and reasonable access to information disclosing the nature, extent, quantity or degree of air contaminants which are or may be being emitted from a source, as set forth in Sections 1-440 and 1-441 of the District's Rules and Regulations, are as follows:

<u>BASE</u>	<u>VIOLATION NOTICE NO.</u>
US Army, Presidio of San Francisco	11687
Naval Air Station, Moffett Field	11001
Naval Air Station, Moffett Field	11004
Naval Air Station, Moffett Field	11050
Naval Weapons Station, Concord	11377
Naval Air Station, Alameda	11380
Mare Island Naval Shipyard	11940
Travis Air Force Base	12053

39. On December 18, 1985, the District's Board of Directors again amended Regulation 8, Rule 19. On that date, the Board determined not to extend the final limit coating exemption for milspecs which, under former Section 8-19-115, would expire on January 1, 1986. Year-long extensions for both the interim and final VOC limits for milspecs were originally included in the

1 Rule, because the District staff recognized that military
2 agencies would necessarily take longer to convert to the use of
3 complying coatings. This was not because of any technological
4 problems in converting, but because of the time it would take to
5 modify milspecs for coatings under the complex and time-consuming
6 specification-writing process.

7 40. On the same day, December 18, 1985, EPA Region 9 was
8 hosting a meeting at the San Francisco Airport for "Achieving
9 Compliance by Federal Facilities and Contractors." Although the
10 emphasis at that meeting was on aerospace coatings, it became
11 clear that federal (and especially military) facilities were far
12 from compliance with any California coating rules. The District
13 staff (along with other California air pollution control
14 agencies) encouraged EPA to change this situation by going
15 directly to the DOD in Washington, D.C., where ultimate authority
16 to change specifications resides.

17 41. On April 18, 1986, after the Violation Notices referred
18 to in paragraph 36 above, had been issued, and partially in
19 response to those notices, the DOD hosted a meeting in
20 Washington, D.C., at which high-level DOD personnel presented a
21 plan which they believed would lead to compliance with California
22 coating rules by mid-1987. However, District staff review of
23 this proposal indicates the following: (a) DOD admits that it
24 will continue to specify the use of non-complying coatings for
25 the foreseeable future, and there is no program to achieve final
26 compliance on any indicated schedule; (b) in addition to the

1 civilian contracting problem arising from the specification of
2 non-complying milspec coating, the actual application of non-
3 complying coatings is on-going at most military facilities within
4 the Bay Area; (c) any significant conversion to complying
5 coatings by local military facilities or by civilian contractors
6 applying milspec coatings pursuant to contracts with the various
7 branches of and command within the military, is wholly dependent
8 on the process for qualifying complying coatings to existing or
9 new military specifications. This process is entirely within the
10 control of the military, and certain criteria being used to
11 evaluate potential milspec coatings can result in disquali-
12 fication of complying coatings which District staff and
13 independent consultants believe should reasonably meet
14 performance requirements, because these criteria do not appear to
15 be consistently performance-related

16 42. Certain civilian contractors have stated in discussions
17 with District staff that they have identified coatings which
18 comply with applicable provisions of Regulation 8, Rule 19, and
19 which also meet the performance requirements of the various
20 contracts with the military. These contractors have sought to
21 utilize such newly identified coatings in their contracts with
22 the military by requesting waivers from existing contract
23 requirements. However, the process for obtaining such waivers is
24 very cumbersome and creates numerous disincentives for
25 contractors seeking to obtain such waivers, such that the
26 contractors in question have had negligible success in obtaining

1 any such waivers.

2 43. On June 19, 1986, the Naval Air Rework Facility,
3 Alameda filed with the District's Hearing Board an Application
4 for Variance (Docket No. 1546) from the requirements of Section
5 8-19-302, covering the coating of miscellaneous metal parts at
6 its facilities at the Naval Air Station, Alameda. This
7 application had a proposed final compliance date of June 1, 1988
8 On August 15, 1986, the Naval Air Station, Moffett Field, filed
9 with the District's Hearing Board an Application for Variance
10 (Docket No. 1577) from the requirements of Section 8-19-302,
11 covering the coating of miscellaneous metal parts at its
12 facilities. This application had a proposed final compliance
13 date of July 1, 1988. On August 22, 1986, the Mare Island Naval
14 Shipyard filed with the District's Hearing Board an Application
15 for Variance (Docket No. 1581) from the requirements of Section
16 8-19-302, covering the coating of miscellaneous metal parts at
17 its facilities in Vallejo. This application had a proposed final
18 compliance date of December 1987. On August 22, 1986, the Naval
19 Weapons Station, Concord, filed with the District's Hearing Board
20 an Application for Variance (Docket No. 1582) from the
21 requirements of Section 8-19-302, covering the coating of
22 miscellaneous metal parts at its facilities in Concord. This
23 application had a proposed final compliance date of December 1,
24 1987. The District staff has determined that the proposed
25 compliance schedules set forth in all of the above-referenced
26 variance applications are vague and uncertain and provide no

1 guarantee that final compliance with the requirements of Section
2 8-19-302 will be achieved as proposed. Consequently, the
3 District staff opposes the requests for relief set forth in said
4 Variance Applications.

5 44. Notwithstanding the representations made by DOD
6 personnel at the April 18, 1986, meeting in Washington, D.C., at
7 other meetings and conversations between District staff and
8 representatives of the various branches and commands within the
9 military, and most recently in a July 18, 1986, memorandum to the
10 secretaries of the military departments from Respondent, James P.
11 Wade, Jr., on policy guidance for VOC compliance planning,
12 Complainant is informed and believes and on that belief alleges
13 that Respondents do not have a plan or program whereby compliance
14 with the requirements of Sections 301, 302 and 307 of District
15 Regulation 8, Rule 19, will be achieved on a firm or even a
16 reasonably foreseeable schedule at the various military bases
17 within the District's jurisdiction, or in the specification by
18 Respondents of coatings to be used by civilian contractors
19 pursuant to contracts with the various commands within the
20 branches of the DOD.

21 45. Respondents are continuing to violate the requirements
22 of Sections 8-19-301, 8-19-302 and 8-19-307 of the District's
23 Rules and Regulations, and the emissions and activities in
24 violation of said provisions, as set forth above (particularly in
25 paragraphs 36 and 38 hereof), may be expected to continue to
6 cause violations of said provisions for the foreseeable future,

1 thereby warranting the granting of an order of abatement.

2 WHEREFORE, the Complainant herein requests the relief which
3 the Hearing Board is empowered to give under the provisions of
4 Health and Safety Code Section 42451, and, more specifically,
5 requests that:

6 A. The Hearing Board find that operations at the various
7 military bases operated by Respondents within the
8 jurisdiction of the District have resulted in
9 violations of Sections 8-19-301 and 8-19-302 of the
10 District's Rules and Regulations since at least January
11 1, 1986.

12 B. The Hearing Board find that the specification of the
13 use of non-complying milspec coatings to be used by
14 civilian contractors pursuant to contracts with various
15 commands within the branches of the DOD has resulted in
16 violations of Section 8-19-307 of the District's Rules
17 and Regulations since at least January 1, 1986.

18 C. An order for abatement issue requiring that
19 Respondents, Goldenstein, David, Mann, Mays, Rafferty
20 and Betsill, cease and desist from operating the
21 facilities which they are responsible for in a manner
22 which violates Sections 8-19-301 and 8-19-302 of the
23 District's Rules and Regulations unless Respondents
24 strictly adhere to a program to achieve compliance with
25 the requirements of said provisions as expeditiously as
26 practicable, and (2) requiring Respondents, Clark,

Fowler, Walker, Morgan and Ball, to cease and desist from specifying the use of non-complying milspec coatings to be used by civilian contractors pursuant to contracts with their respective commands unless Respondents adhere to a program to achieve compliance with the requirements of said provisions as expeditiously as practicable.

D. The Hearing Board grant such further relief as it may deem appropriate.

DATED: September 10, 1986

By :

MILTON FELDSTEIN

Air Pollution Control Officer

EXECUTIVE ORDER 12008

Federal Compliance with Pollution Control Standards

By the authority vested in me as President by the Constitution and Statutes of the United States of America, including Sections 23 of the Toxic Substances Control Act (15 U.S.C. 3601), Section 315 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323), Section 1447 of the Public Health Service Act, as amended by the Safe Drinking Water Act (42 U.S.C. 300f-6), Section 118 of the Clean Air Act, as amended (42 U.S.C. 7418b), Section 4 of the Noise Control Act of 1972 (42 U.S.C. 4903), Section 8801 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6901), and Section 301 of Title 3 of the United States Code, and to ensure Federal compliance with applicable pollution control standards, it is hereby ordered as follows:

1-1. Applicability of Pollution Control Standards

1-101. The head of each Executive agency is responsible for ensuring that all necessary actions are taken for the prevention, control, and abatement of environmental pollution with respect to Federal facilities and activities under the control of the agency.

1-102. The head of each Executive agency is responsible for compliance with applicable pollution control standards, including those established pursuant to, but not limited to, the following:

- (a) Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*).
- (b) Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*).
- (c) Public Health Service Act, as amended by the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*).
- (d) Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*).
- (e) Noise Control Act of 1972 (42 U.S.C. 4901 *et seq.*).
- (f) Solid Waste Disposal Act, as amended (42 U.S.C. 6901 *et seq.*).
- (g) Radiation guidance pursuant to Section 274(h) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021(h)); see also, the Radiation Protection Guidance to Federal Agencies for Diagnostic X Rays approved by the President on January 26, 1978 and published at page 4577 of the *FEDERAL REGISTER* on February 1, 1978).
- (h) Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1401, 1402, 1411-1421, 1441-1444 and 16 U.S.C. 1431-1434).
- (i) Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 *et seq.*).

1-103. "Applicable pollution control standards" means the same substantive, procedural, and other requirements that would apply to a private person.

1-2. Agency Coordination

1-201. Each Executive agency shall cooperate with the Administrator of the Environmental Protection Agency, hereinafter referred to as the Administrator, and State, interstate, and local agencies in the prevention, control, and abatement of environmental pollution.

1-202. Each Executive agency shall consult with the Administrator and with State, interstate, and local agencies concerning the best techniques and methods available for the prevention, control, and abatement of environmental pollution.

1-3. Technical Advice and Oversight

1-301. The Administrator shall provide technical advice and assistance to Executive agencies in order to ensure their cost effective and timely compliance with applicable pollution control standards.

1-302. The Administrator shall conduct such reviews and inspections as may be necessary to monitor compliance with applicable pollution control standards by Federal facilities and activities.

1-4. Pollution Control Plan

1-401. Each Executive agency shall submit to the Director of the Office of Management and Budget, through the Administrator, an annual plan for the control of environmental pollution. The plan shall provide for any necessary improvement in the design, construction, management, operation, and maintenance of Federal facilities and activities, and shall include annual cost estimates. The Administrator shall establish guidelines for developing such plans.

1-402. In preparing its plan, each Executive agency shall ensure that the plan provides for compliance with all applicable pollution control standards.

1-403. The plan shall be submitted in accordance with any other instructions that the Director of the Office of Management and Budget may issue.

1-5. Funding

1-501. The head of each Executive agency shall ensure that sufficient funds for compliance with applicable pollution control standards are requested in the agency budget.

1-502. The head of each Executive agency shall ensure that funds appropriated and appropriated for the prevention, control and abatement of environmental pollution are not used for any other purpose unless permitted by law and specifically approved by the Office of Management and Budget.

1-6. Compliance With Pollution Control

1-601. Whenever the Administrator or the appropriate State, interstate, or local agency notifies an Executive agency that it is in violation of an applicable pollution control standard (see Section 1-102 of this Order), the Executive agency shall promptly consult with the notifying agency and provide for an approval a plan to achieve and maintain compliance with the applicable pollution control standard. This plan shall include an implementation schedule for coming into compliance as soon as practicable.

1-602. The Administrator shall make every effort to resolve conflicts regarding such violation between Executive agencies and, on request of any party, such conflicts between an Executive agency and a State, interstate, or a local agency. If the Administrator cannot resolve a conflict, the Administrator shall request the Director of the Office of Management and Budget to resolve the conflict.

1-603. The Director of the Office of Management and Budget shall consider unresolved conflicts at the request of the Administrator. The Director shall seek the Administrator's technological judgment and determination with regard to the applicability of statutes and regulations.

1-604. These conflict resolution procedures are in addition to, not in lieu of, other procedures, including sanctions, for the enforcement of applicable pollution control standards.

1-605. Except as expressly provided by a Presidential exemption under this Order, nothing in this Order, nor any action or inaction under this Order, shall be construed to revise or modify any applicable pollution control standard.

1-7. Limitation on Exemption

1-701. Exemptions from applicable pollution control standards may only be granted under statutes cited in Section 1-102(a) through 1-102(f) if the President makes the required appropriate situation determination that such exemption is necessary (a) in the interest of national security, or (b) in the paramount interest of the United States.

1-702. The head of an Executive agency may, from time to time, recommend to the President through the Director of the Office of Management and Budget, that an activity or facility, or uses thereof, be exempt from an applicable pollution control standard.

1-703. The Administrator shall advise the President, through the Director of the Office of Management and Budget, whether he agrees or disagrees with a recommendation for exemption and his reasons therefor.

1-704. The Director of the Office of Management and Budget must advise the President within sixty days of receipt of the Administrator's views.

1-8. General Provisions

1-801. The head of each Executive agency that is responsible for the construction or operation of Federal facilities outside the United States shall ensure that such construction or operation complies with the environmental pollution control standards of general applicability in the host country or jurisdiction.

1-802. Executive Order No. 11732 of December 17, 1973, is revoked.



THE WHITE HOUSE,
October 13, 1974